



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**[OMB 3060-0568]**

**Information Collection Requirement Being Reviewed by the Federal Communications Commission**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the Title as shown in the “Supplementary Information” section below.

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**

**OMB Control Number:** 3060-0568.

**Title:** Sections 76.970, 76.971, and 76.975, Commercial Leased Access Rates, Terms and Conditions, and Dispute Resolution.

**Form Number:** N/A.

**Type of Review:** Revision of a currently approved collection.

**Respondents:** Businesses or other for-profit entities; Not-for-profit institutions.

**Number of Respondents and Responses:** 2,677 respondents; 6,879 responses.

**Estimated Time per Response:** 0.5 hours to 40 hours.

**Frequency of Response:** Recordkeeping requirement; On occasion reporting requirement; Third-party disclosure requirement.

**Obligation to Respond:** Mandatory; Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 4(i), 303, and 612 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 532.

**Total Annual Burden:** 17,131 hours.

**Total Annual Cost:** \$118,000.

**Privacy Act Impact Assessment:** No impact(s).

**Nature and Extent of Confidentiality:** There is no need for confidentiality with this collection of information.

**Needs and Uses:** On June 7, 2019, in document FCC 19-52, the Commission released a Report and Order and Second Further Notice of Proposed Rulemaking updating its leased access rules as part of its Modernization of Media Regulation Initiative.

The information collection requirements for this collection, some of which were revised (Sections 76.970(h) and 76.975(e)) by FCC 19-52, are contained in the following rule sections:

47 CFR 76.970(h) requires cable operators to provide prospective leased access programmers with the following information within 30 calendar days of the date on which a bona fide request for leased access information is made, provided that the programmer has remitted any application fee that the cable system operator requires up to a maximum of \$100 per system-specific bona fide request (for systems subject to small system relief, cable operators are required to provide the following information within 45 calendar days of a bona fide request):

- (a) how much of the cable operator's leased access set-aside capacity is available;
- (b) a complete schedule of the operator's full-time leased access rates;
- (c) rates associated with technical and studio costs; and
- (d) if specifically requested, a sample leased access contract.

Bona fide requests, as used in this section, are defined as requests from potential leased access programmers that have provided the following information:

- (a) the desired length of a contract term;
- (b) the anticipated commencement date for carriage; and
- (c) the nature of the programming.

All requests for leased access must be made in writing and must specify the date on which the request was sent to the operator. Operators must maintain supporting documentation to justify scheduled rates, including supporting contracts, calculations of the implicit fees, and justifications for all adjustments.

Cable system operators must disclose on their own websites, or through alternate means if they do not have their own websites, a contact name or title, telephone number, and email address for the person responsible for responding to requests for information about leased access channels.

47 CFR 76.971 requires cable operators to provide billing and collection services to leased access programmers unless they can demonstrate the existence of third party billing and collection services which, in terms of cost and accessibility, offer leased access programmers an alternative substantially equivalent to that offered to comparable non-leased access programmers.

47 CFR 76.975(b) allows any person aggrieved by the failure or refusal of a cable operator to make commercial channel capacity available or to charge rates for such capacity in accordance with the relevant provisions of the statute or the implementing regulations to file a petition for relief with the Commission. Persons alleging that a cable operator's leased access rate is unreasonable must receive a determination of the cable operator's maximum permitted rate from an independent accountant prior to filing a petition. If parties cannot agree on a mutually acceptable accountant within five business days of the programmer's request for a review, they must each select an independent accountant on the sixth business day. These two accountants will then have five business days to select a third independent accountant to perform the review. To account for their more limited resources, operators of systems entitled to small system relief have 14 business days to select an independent accountant when no agreement can be reached.

47 CFR 76.975(c) requires that petitioners attach a copy of the final accountant's report to their petition where the petition is based on allegations that a cable operator's leased access rates are unreasonable.

47 CFR 76.975(e) provides that the cable operator or other respondent will have 30 days from service of the petition to file an answer. If a leased access rate is disputed, the answer must show that the rate charged is not higher than the maximum permitted rate for such leased access, and must be supported by the affidavit of a responsible company official. If, after an answer is submitted, the staff finds a prima facie violation of our rules, the staff may require a respondent to produce additional information, or specify other procedures necessary for resolution of the proceeding. Replies to answers must be filed within fifteen (15) days after submission of the answer.

The Commission has determined that there is some duplication in collections 3060-0568 and 3060-0569. Therefore, we are also consolidating collection 3060-0569 into 3060-0568. The Commission intends to discontinue collection 3060-0569 once the consolidation has been approved by OMB.

FEDERAL COMMUNICATIONS COMMISSION

**Marlene Dortch,**

*Secretary.*

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